



OFFICE OF THE ATTORNEY GENERAL OF TEXAS
AUSTIN

GERALD C. MANN
ATTORNEY GENERAL

April 3, 1939

Hon. T. O. Walton, President
Agricultural and Mechanical College
College Station, Texas

Dear Sir:

Opinion No. O-471

Re: May employees of A & M College who
are Notaries Public legally refuse
to do notary work for the public
during the hours such Notaries Public
are employed by the College?

This will acknowledge receipt of your letter
of March 10, 1939, in which you request an opinion of
this Department as to whether or not employees of A & M
College who are Notaries Public can legally refuse to
do notary work for the public during the hours such
Notaries Public are employed by the College.

It has been generally held in practically all
the states in the United States that a Notary Public
is a public officer. State ex rel Gray vs. Hodges, 154
SW 506, Ark. May vs. Jones, 14 SE 552, Ga. and authori-
ties too numerous to mention herein.

It is fundamental that a public officer cannot
refuse to execute a duty imposed upon him by law. This
rule is announced in 22 R. C. L. 462, para. 126, in the
following language:

"A person who accepts a public office
does so cum onere, and is considered as accept-
ing its burdens and obligations with its bene-
fits. He thereby subjects himself to all con-
stitutional and legislative provisions relating

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thereto and undertakes to perform all the duties of the office, and while he remains in such office the public has the right to demand that he perform such duties."

Among the duties of a Notary Public, is the duty of taking acknowledgments of the public generally. If he accepts his appointment at the hand of the Governor and holds himself out as a Notary Public he accepts the duties imposed upon him by virtue of the office he holds. He has not only the duty of taking acknowledgments, but he has the duty of refusing to take acknowledgments under given conditions which, by their nature, constitutes good cause. There appear no facts in your inquiry which would constitute good cause for refusal to act.

It is, therefore, the opinion of this Department and you are so advised that the Notaries Public who are employed by the Agricultural and Mechanical College of Texas cannot legally refuse to do notary work for the public generally during office hours. There is, however, no duty imposed upon a Notary, or any other public official, to execute a particular duty at any given moment. He may execute that duty at such reasonable time as is consistent with the other duties imposed upon him by reason of his particular employment.

Trusting that this satisfactorily answers your inquiry, we are

Very truly yours

ATTORNEY GENERAL OF TEXAS

By *Lloyd Armstrong*

Lloyd Armstrong
Assistant

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APPROVED:

Gerard C. Mann
ATTORNEY GENERAL OF TEXAS